

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

CAL DATA SYSTEMS, INC.,	§	
	§	
Plaintiff,	§	
	§	
VS.	§	CIVIL ACTION NO. H-07-1390
	§	
NCS PEARSON, INC.,	§	
	§	
Defendant.	§	

ORDER

The plaintiff, Cal Data Systems, Inc., has filed a Chapter 7 bankruptcy petition in the United States Bankruptcy Court for the Southern District of Texas, Case No. 07-33222. Before the bankruptcy petition was filed, the defendant in this suit counterclaimed against Cal Data Systems, Inc.

Section 362 of the Bankruptcy Act provides in part:

Automatic stay.

(a) Except as provided in subsection (b) of this section, a petition filed under section 301, 302, or 303 of this title . . . operates as a stay, applicable to all entities, of-

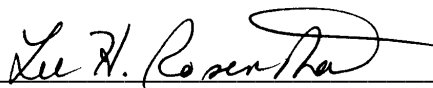
(1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title. . . .

11 U.S.C. § 362(a)(1) (1991) (emphasis added).

Subsection (a) defines the scope of the automatic stay by listing acts that are stayed by the commencement of a bankruptcy case. All judicial actions against a debtor seeking recovery on a claim that were or could have been brought before commencement of a bankruptcy case are automatically stayed. Although the scope of the automatic stay is broad, section 362(a) stays only proceedings “against a debtor.” The statute does not address actions brought by the debtor that would inure to the benefit of the bankruptcy estate.

All proceedings in a single case are not lumped together for purposes of automatic stay analysis. Within a single case, some claims may be stayed while others proceed. Claims against a debtor will be suspended even though closely related claims asserted by the debtor may continue. In this case, Cal Data, the debtor, has filed claims against the defendant, which has counterclaimed against Cal Data. The issue is whether the bankruptcy stays only the counterclaim or whether the entire action should be stayed. No later than **July 27, 2007**, the parties must advise this court as to the effect of the bankruptcy filing in this case.

SIGNED on July 10, 2007, at Houston, Texas.

A handwritten signature in black ink, appearing to read "Lee H. Rosenthal", is written over a horizontal line.

Lee H. Rosenthal
United States District Judge